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8 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

9 LORALEE IMES, parent and  
10 guardian ad litem for C.I., a minor,

11 Plaintiff,

12 v.

13 NANCY A. BERRYHILL, Acting  
14 Commissioner of the Social Security  
Administration,

15 Defendant.

CASE NO. 2:16-cv-01401 JCC-JRC

REPORT AND RECOMMENDATION  
ON UNOPPOSED MOTION FOR  
REMAND

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17 This matter has been referred to Magistrate Judge J. Richard Creatura pursuant to 28  
18 U.S.C. § 636(b)(1)(B) and Local Magistrates Rule MJR 4(a)(4), and as authorized by *Mathews*,  
19 *Secretary of H.E.W. v. Weber*, 423 U.S. 261 (1976). This matter is before the Court on  
20 Defendant's Motion to Remand Pursuant to Sentence Six, 42 U.S.C. § 405(g). Dkt. 16. Plaintiff  
21 filed no objections to this motion. Defendant "requests that the Court order the case remanded to  
22 the Commissioner for further proceedings and a new decision." *Id.* at p. 1.

23 After reviewing Defendant's motion and the relevant record, the undersigned  
24 recommends that the Court grant Defendant's motion, and remand this matter to the Acting

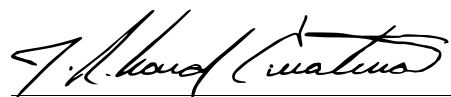
1 Commissioner, pursuant to sentence six of 42 U.S.C. § 405(g), in order for the Appeals Council  
2 to determine if all the materials including the hearing recording are complete. This Court retains  
3 jurisdiction of this action pending further administrative development of the record. *See* 42  
4 U.S.C. § 405(g); *see also Shalala v. Schaefer*, 509 U.S. 292, 297-300 (1993). No judgment shall  
5 enter at this time.

6 On remand, the Appeals Council should first determine whether or not all materials  
7 including the hearing record are complete and the certified administrative record can be  
8 prepared. If so, the Appeals Council will prepare the certified administrative record and file it  
9 with this Court. If the record is not complete and a certified administrative record cannot be  
10 prepared, the Appeals Council will remand the case to an Administrative Law Judge for  
11 reconstruction of the administrative record and to hold another hearing and issue a new decision.

12 If the outcome of the *de novo* hearing is not fully favorable to Plaintiff, the Acting  
13 Commissioner shall file with the Court a transcript of the additional record and testimony on  
14 which the Commissioner's action in modifying or affirming is based. *Id.* In addition, Plaintiff  
15 may seek judicial review by reinstating this case rather than by filing a new complaint. If the  
16 outcome is favorable to Plaintiff, the parties shall move this Court for entry of Judgment.

17 Given the facts and the unopposed nature of the motion, the Court recommends that the  
18 District Judge immediately approve this Report and Recommendation and order the case be  
19 **REMANDED** pursuant to sentence six of 42 U.S.C. § 405(g). All remaining deadlines under the  
20 current briefing schedule should be vacated.

21 Dated this 17th day of April, 2017.

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24 J. Richard Creatura  
United States Magistrate Judge